

## § 174.11

## 19 CFR Ch. I (4–1–12 Edition)

time by written notice given to and received by the port director.

(Secs. 514, 515, 46 Stat. 734, as amended; 19 U.S.C. 1514, 1515)

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 70–224, 35 FR 16243, Oct. 16, 1970; T.D. 73–175, 38 FR 17487, July 2, 1973]

### Subpart B—Protests

#### § 174.11 Matters subject to protest.

The following decisions of CBP, including the legality of all orders and findings entering into those decisions, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) *Clerical errors, mistakes of fact, and other inadvertences.* Except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the Tariff Act of 1930, as amended, any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation is subject to protest. In addition, any entry, liquidation, or other CBP transaction that occurred prior to December 18, 2004, also may be the subject of a reliquidation request made pursuant to the terms set forth in § 173.4 (19 CFR 173.4).

(b) *Administrative decisions.* CBP administrative decisions involving the following subject matters are subject to protest:

- (1) The appraised value of merchandise;
- (2) The classification and rate and amount of duties chargeable;
- (3) All charges or exactions of whatever character, including the accrual of interest, within the jurisdiction of the Secretary of Homeland Security or the Secretary of the Treasury;
- (4) The exclusion of merchandise from entry, delivery, or a demand for redelivery to CBP custody under any provision of the customs laws except a determination that may be appealed under 19 U.S.C. 1337;
- (5) The liquidation or reliquidation of an entry, or any modification of an entry;

(6) The refusal to pay a claim for drawback;

(7) The refusal to reliquidate an entry made before December 18, 2004, under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)); or

(8) The refusal to reliquidate an entry under section 520(d), Tariff Act of 1930, as amended (19 U.S.C. 1520(d)).

[CBP Dec. 11–02, 76 FR 2577, Jan. 14, 2011]

#### § 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by:

(1) The importer or consignee shown on the entry papers, or their sureties;

(2) Any person paying or receiving a refund of any charge or exaction;

(3) Any person seeking entry or delivery;

(4) Any person filing a claim for drawback;

(5) With respect to a determination of origin under subpart G of part 181 of this chapter, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a Certificate of Origin covering the merchandise as provided for in § 181.11(a) of this chapter; or

(6) Any authorized agent of any of the persons described in paragraphs (a) (1) through (5) of this section, subject to the provisions of § 174.3.

(b) *Form and number of copies.* A written protest against a decision of CBP must be filed in quadruplicate on CBP Form 19 or a form of the same size clearly labeled “Protest” and setting forth the same content in its entirety, in the same order, addressed to CBP. All schedules or other attachments to a protest (other than samples or similar exhibits) must also be filed in quadruplicate. A protest against a decision of CBP may also be transmitted electronically pursuant to any electronic data interchange system authorized by CBP for that purpose. Electronic submissions are not required to be filed in quadruplicate.

(c) *Identity of filer.* The identity of the person filing the protest or his agent, or attorney shall be noted on the protest. This may be accomplished

through a signature which is hand-written in ink, stamped, typed, facsimile, telefax, or by electronic certification in ACS. If the person filing the protest is not the importer of record or consignee, the filer shall include his address and importer number, if any.

(d) *Place of filing.* Protests shall be filed with the port director whose decision is protested.

(e) *Time of filing.* Protests must be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days of a decision relating to an entry made before December 18, 2004, or within 180 days of a decision relating to an entry made on or after December 18, 2004, after any of the following:

(1) The date of notice of liquidation or reliquidation, or the date of liquidation or reliquidation, as determined under §§ 159.9 or 159.10 of this chapter;

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (for example: The date of an exaction; the date of written notice excluding merchandise from entry, delivery or demanding redelivery to CBP custody under any provision of the customs laws; the date of written notice of a denial of a claim filed under section 520(d), Tariff Act of 1930, as amended (19 U.S.C. 1520(d)), or; within 90 days of the date of denial of a petition filed pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), relating to an entry made before December 18, 2004); or

(3) The date of mailing of notice of demand for payment against a bond in the case of a surety which has an unsatisfied legal claim under a bond written by the surety.

(f) *Date of filing.* The date on which a protest is received by the Customs officer with whom it is required to be filed shall be deemed the date on which it is filed.

(g) *Return of fifth copy.* If a fifth copy of the protest is presented for the purpose of having recorded thereon the date of its receipt and the protest number assigned thereto, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the protest.

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 174.12, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### § 174.13 Contents of protest.

(a) *Contents, in general.* A protest shall contain the following information:

(1) The name and address of the protestant, *i.e.*, the importer of record or consignee, and the name and address of his agent or attorney if signed by one of these;

(2) The importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown;

(3) The number and date of the entry;

(4) The date of liquidation of the entry, or the date of a decision not involving a liquidation or reliquidation;

(5) A specific description of the merchandise affected by the decision as to which protest is made;

(6) The nature of, and justification for the objection set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal;

(7) The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review pursuant to subpart C of this part and that is alleged to involve the same merchandise and the same issues, if the protesting party requests disposition in accordance with the action taken on such previously filed protest;

(8) If another party has not filed a timely protest, the surety's protest shall certify that the protest is not being filed collusively to extend another authorized person's time to protest; and

(9) A declaration, to the best of the protestant's knowledge, as to whether the entry is the subject of drawback, or whether the entry has been referenced on a certificate of delivery or certificate of manufacture and delivery so as to enable a party to make such entry the subject of drawback (see §§ 181.50(b) and 191.81(b) of this chapter).

(b) *Multiple entries.* A single protest may be filed with respect to more than one entry at any port if all such entries